

# **Federal Permit Streamlining & Programmatic Permits for Local Agency Projects**

Gregor Myhr, WSDOT Maintenance

Bill Leonard, WSDOT H&LP

Lisa Hemesath, Clark County

**Joint Transportation Committee  
November 19, 2013**

Regional Road Maintenance  
Program (RRMP)  
Endangered Species Act (ESA) 4(d)  
Coverage with NMFS

Gregor Myhr, WSDOT Maintenance

# ESA 4(d) Regional Road Maintenance Program

- WSDOT and 31 local agencies in Washington State are covered
- ESA 4 (d) Authorizes “Take” under the Endangered Species Act under special conditions
- “Take” means to harm, harass, injure, or kill listed species & habitat
- Applies to listed aquatic species regulated by National Marine Fisheries Service (NMFS) [except listed ‘Endangered’ species]



WSDOT large woody debris removal maintenance work



# Environmental Outcome Based Program

Spill Kits On Site



Restore Streambank



Environmental Training



Culvert Cleanout Maintains Hydraulic Flow and Fish Passage



Environmental Training



Cleaning catch basins



# Definition of Maintenance

Repair and maintenance include activities that:

- Are conducted on currently serviceable structures, facilities and equipment (*including **Planned** and **Emergency** work*)
- Involve no expansion or change in use beyond that which previously existed
- No significant negative hydrological impact
- Includes replacing existing structures with different types of structures PROVIDED that:
  - Meet current engineering standards or
  - Meet environmental permit standards



Before



After

# NMFS Section 7 ESA Review

NMFS clarified in 2011 that actions carried out under the RRMP have satisfied ESA Section 7 requirements for actions with a federal nexus. Federal agencies that have approved this process include:



# NMFS ESA 7 Review

This review is for determining whether a project is covered by ESA 4(d) and Section 7

Authorization:

- Action carried out by participating agency
- NMFS species has been addressed in previous consultations
- Consistent with scope of 'Maintenance'
- Action applies procedures of RRMP

WSDOT ESA 4(d) Website

<http://www.wsdot.wa.gov/maintenance/roadside/esa.htm>

# NMFS ESA Review

## Additional limitations for covered work:

- Does not cover in-water pile driving
- Will not 'adversely affect endangered salmon'
- No effect on Eulachon
- No effect on Puget Sound rockfish
- Review bridge replacement on case by case basis  
[FHWA & WSDOT HL&P Lead on this]

# NMFS ESA Section 7 Review Process

Required Documentation for Federal Nexus Agencies [FHWA, Corps FEMA]:

- ✓ • Completed Project Checklist
- ✓ • Copy of the Maintenance Category covering the action
- ✓ • Copy of the local agency ESA 4(d) approval letter
- ✓ • Copy of the NMFS ESA Section 7 confirmation letter (2011)

# ESA 4d Project Example – Repair Erosion Damage



- Flood damage from 2011/12 high flow events
- Plan erosion repair for summer 2012 – maintenance crews
- Federal Nexus: FHWA \$ for post emergency repair
  - Exempt from Corps Permit

# ESA 4d Project Example – Repair Erosion Damage

- Final repair restored road embankment to ‘pre-existing’ conditions
- Met environmental outcomes
- Followed permit provisions
- Programmatic consultation on ‘EFH’ saved time and cost



SR 8 Wildcat Creek

# Programmatic ESA Coverage with U.S. Fish & Wildlife Service

Bill Leonard, WSDOT H&LP

# USFWS Programmatic

## *Desired Outcome*

- Programmatic ESA coverage for FWS-listed species on a broad range of maintenance and maintenance-scope projects similar to what Regional Program has with NMFS under 4(d).

## ***Geographic Scope***

- The Programmatic might be limited to the 31 local agencies that are members of the Forum, or it might apply to local agencies statewide.

## ***Federal Nexuses***

The desire is for the Programmatic to apply to three Federal nexuses:

1. U.S. Army Corps permits.
2. FHWA Funding.
3. FEMA approvals.

# *Species to be Covered*

27 ESA-listed species managed by FWS

- Bull Trout
- Northern Spotted Owl
- Marbled Murrelet
- Grizzly Bear
- Gray Wolf
- Canada Lynx

# Current Status

Conversations with FWS are confronted by two primary questions:

1. Is there sufficient workload that would be covered by the programmatic to justify the investment of necessary staff resources at FWS?
2. Can FWS approve a programmatic with multiple entities and federal nexuses.

# Center-lane Miles of Local Agency Roads

	Cities	Counties	Total
Western WA	13,585	15,041	28,626
Eastern WA	5,410	24,249	29,660
<b>Totals</b>	<b>18,995</b>	<b>39,291</b>	<b>58,286</b>

~80% of center-lane miles in Washington 

# Local agency projects in the STIP: 2013 to 2016

FHWA Improvement Type	E. WA Cities	E. WA Counties	W. WA Cities	W. WA Counties	TOTAL
New Road	17	3	15	3	38
Road reconstruction, added capacity	19	12	26	24	81
Road reconstruction, no added capacity	30	40	55	22	147
Maintenance resurfacing	24	26	39	12	101
Maintenance – restoration & rehab.	9	4	25	4	42
Maintenance – relocation	3	1	1	0	5
Bridge, new construction	1	4	2	3	10
Bridge replacement, added capacity	1	2	1	1	5
Bridge replacement, no added capacity	2	12	8	17	39
Bridge rehabilitation, added capacity	1	0	0	1	2
Bridge rehabilitation, no added capacity	2	10	9	19	40
Safety	31	30	51	44	156
<b>TOTAL</b>	<b>140</b>	<b>144</b>	<b>232</b>	<b>150</b>	<b>666</b>

# Efficiencies

## *Cost Savings*

- \$10,000 for every Biological Assessment written.

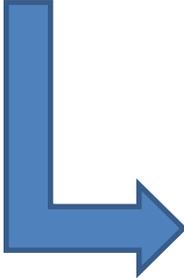
## *Time Savings*

- 3 - 6 months to complete a Biological Assessment.
- 2 - 6 months to complete consultation with Services.

# Sara Junction Slide Slope Stabilization

Lisa Hemesath, Clark County

# Sara Junction Slide



# Northwest 179th Street landslide and closure

February 2013



Clark County closed a 650-foot section of Northwest 179th Street on Jan. 31 because a landslide threatened to undermine the north side of the road.

The slide has continued to move farther down the hill and into Whipple Creek, about 1,200 feet west of Northwest 41st Avenue.

This section of Northwest 179th Street will remain closed until further notice. Ash Creek Associates, an environmental and engineering consultant, has conducted soils and other geotechnical studies at the slide.

Based on those findings, Clark County expects to design a comprehensive repair. The project will require work in Whipple Creek, which means the county will need to obtain permits from the Washington Department of Fish and Wildlife and other agencies. Construction in Whipple Creek also will be limited to summer months, when it will have the least effect on fish.



**For these reasons, the county does not expect this section of Northwest 179th Street will reopen until fall 2013. Every effort will be made to expedite this repair and reopen the road.**

Almost 900 vehicles a day use this section of Northwest 179th Street, according to 2012 data. Trucks make up about 2 percent of daily traffic.

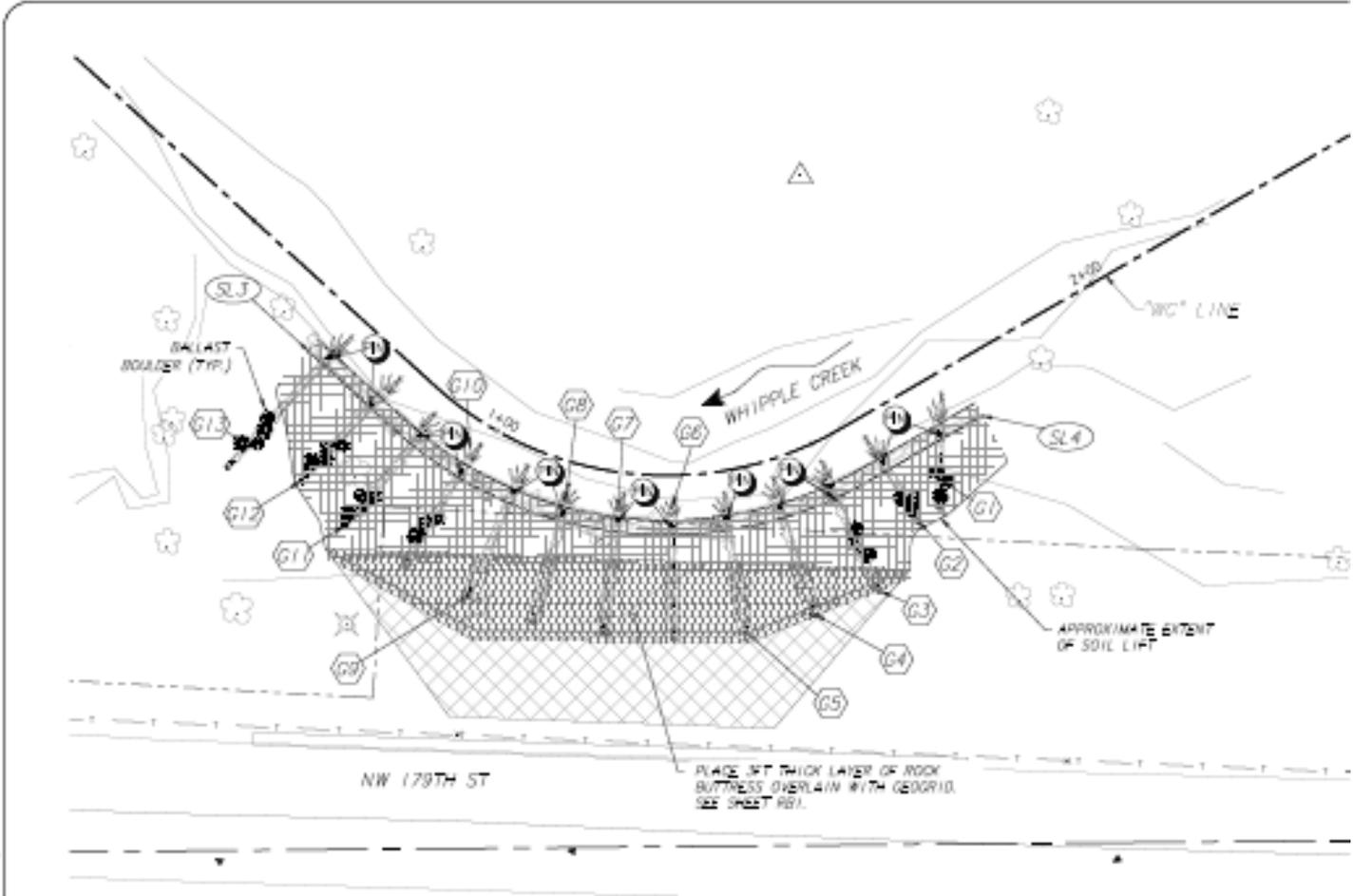
Drivers should continue to detour south onto Northwest 169th Street by using Northwest 41st and 51st avenues.

**For more information:**  
Don Andrews, Project Manager  
Clark County Public Works  
(360) 397-6118 ext. 4362  
[Don.Andrews@clark.wa.gov](mailto:Don.Andrews@clark.wa.gov)

 For other formats, contact the Clark County ADA Office  
**Voice** (360) 397-2322, **Relay** 711 or (800) 833-6388,  
**Fax** (360) 397-6165, **E-mail** [ADA@clark.wa.gov](mailto:ADA@clark.wa.gov)



# Sara Junction Slide Slope Stabilization: Design



# Sara Junction Slide Slope Stabilization: During Construction



# Sara Junction Slide Slope Stabilization: After Construction



# Contacts

Gregor Myhr, WSDOT Maintenance Program

[Myhrg@wsdot.wa.gov](mailto:Myhrg@wsdot.wa.gov)

(360) 705-7853

Bill Leonard, WSDOT H&LP

[Leonardb@wsdot.wa.gov](mailto:Leonardb@wsdot.wa.gov)

(360) 705-7344

Lisa Hemesath, Clark Co. Department of Environmental Services

[lisa.hemesath@clark.wa.gov](mailto:lisa.hemesath@clark.wa.gov)

(360) 397-2121 ext. 4865